

**2011 DRAFTING REQUEST**

**Bill**

Received: **02/20/2012**

Received By: **agary**

Wanted: **As time permits**

Companion to LRB:

For: **Janis Ringhand (608) 266-1192**

By/Representing: **Joe Hoey / Maggie Gau**

May Contact:

Drafter: **agary**

Subject: **Beverages**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Ringhand@legis.wi.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Brand compensation for wholesalers

---

**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 02/20/2012	csicilia 02/20/2012		_____			
/1			jfrantze 02/20/2012	_____	mbarman 02/20/2012	ggodwin 02/22/2012	

FE Sent For:

<END>

*None*

## **2011 DRAFTING REQUEST**

### **Bill**

Received: **02/20/2012**

Received By: **agary**

Wanted: **As time permits**

Companion to LRB:

For: **Janis Ringhand (608) 266-1192**

By/Representing: **Joe Hoey / Maggie Gau**

May Contact:

Drafter: **agary**

Subject: **Beverages**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Ringhand@legis.wi.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

---

### **Pre Topic:**

No specific pre topic given

---

### **Topic:**

Brand compensation for wholesalers

---

### **Instructions:**

See attached

---

### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 02/20/2012	csicilia 02/20/2012		_____			
/1			jfrantze 02/20/2012	_____	mbarman 02/20/2012		

FE Sent For:

<END>

## 2011 DRAFTING REQUEST

### Bill

Received: 02/20/2012

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Janis Ringhand (608) 266-1192

By/Representing: Joe Hoey / Maggie Gau

May Contact:

Drafter: agary

Subject: Beverages

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Ringhand@legis.wi.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Brand compensation for wholesalers

---

### Instructions:

See attached

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	agary	1 gjs 2/20 12	2/20	RS+fm 2/20			

FE Sent For:

<END>

**Gary, Aaron**

---

**From:** Hoey, Joseph  
**Sent:** Monday, February 20, 2012 10:38 AM  
**To:** Gary, Aaron  
**Cc:** Gau, Maggie  
**Subject:** FW: Bill Draft  
**Attachments:** 11-38281 FINAL.pdf

→ 3828/1 attached

Aaron,

Thank you for all your hard work on this. I hope this is my last request of you on this bill. Could we get a new draft that only has the brand comp language in it?

Thanks,

Joe

*Joseph P. Hoey  
Office of State Representative Janet Bewley  
74th Assembly District  
(608) 266-7690 / (888) 534-0074*

2/20/2012

**Gary, Aaron**

---

**From:** Hoey, Joseph  
**Sent:** Monday, February 20, 2012 11:08 AM  
**To:** Gary, Aaron  
**Cc:** Gau, Maggie  
**Subject:** RE: Bill Draft

It is for Rep. Ringhand and you can transfer over the file to speed things up.

Thanks!

*Joseph P. Hoey*  
*Office of State Representative Janet Bewley*  
*74th Assembly District*  
*(608) 266-7690 / (888) 534-0074*

---

**From:** Gary, Aaron  
**Sent:** Monday, February 20, 2012 10:52 AM  
**To:** Hoey, Joseph  
**Cc:** Gau, Maggie  
**Subject:** RE: Bill Draft

Sure. Is it again for Rep. Ringhand? Also, since I'm starting a new draft, I'll have to repeat the applicable paragraph of the d-note, even though you've heard that same song before, unless you want me to just transfer the -3828 file over to this new draft. The new number will be LRB-4151. Thanks. Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

---

**From:** Hoey, Joseph  
**Sent:** Monday, February 20, 2012 10:38 AM  
**To:** Gary, Aaron  
**Cc:** Gau, Maggie  
**Subject:** FW: Bill Draft

Aaron,

Thank you for all your hard work on this. I hope this is my last request of you on this bill. Could we get a new draft that only has the brand comp language in it?

Thanks,

Joe

*Joseph P. Hoey*  
*Office of State Representative Janet Bewley*  
*74th Assembly District*  
*(608) 266-7690 / (888) 534-0074*

2/20/2012

# ***“RESEARCH APPENDIX”***

*... Drafting History Reproduction Request Form ...*

 **DRAFTING ATTORNEYS: PLEASE COMPLETE THIS FORM AND GIVE TO MIKE BARMAN**


(Request Made By: ARG) (Date: 2 / 20 / 12)

## **Note:**


***BOTH DRAFTS SHOULD HAVE THE  
SAME “REQUESTOR”***


*(exception: companion bills)*

↑                      ↑                      ↑                      ↑

☐  Please transfer the drafting file for  
**2009 LRB** \_\_\_\_\_ (For: Rep. / Sen. \_\_\_\_\_)  
to the drafting file for  
**2011 LRB** \_\_\_\_\_ (For: Rep. / Sen. \_\_\_\_\_)

-----OR-----

☒  Please copy the drafting file for  
**2011 LRB** - 3828 / 1 (include the version) (For: Rep. / Sen. Ringland)  
and place it in the drafting file for  
**2011 LRB** - 4151 (For: Rep. / Sen. Ringland)

 Are These “Companion Bills” ?? ... Yes ☐ **No** ☒

If yes, who in the initial requestor’s office authorized the copy/transfer of the drafting history  
 (“guts”) from the original file: \_\_\_\_\_



State of Wisconsin  
2011 - 2012 LEGISLATURE

TODAY



LRB-28281-41511  
ARG:cjs:rs

2011 BILL

in  
2/20

RMNR

stays

Ger Cat

SA

- 1 AN ACT ~~to renumber and amend~~ 125.02 (3); ~~to amend~~ 125.02 (2), 125.29 (3)  
2 (d) and 125.33 (10) (b); and **to create** 125.02 (3) (b), 125.02 (4m), (11m) and  
3 (20g), 125.29 (3) (k), 125.29 (7) and 125.33 (10) (f) of the statutes; **relating to:**  
4 authorized operations of brewers, compensation for loss of fermented malt  
5 beverages distribution rights, providing an exemption from emergency rule  
6 procedures, and requiring the exercise of rule-making authority.

**Analysis by the Legislative Reference Bureau**

~~Under current law, a brewer holding a brewer's permit may, among other activities authorized under its brewer's permit: 1) sell, ship, transport, and deliver its own fermented malt beverages (beer) to wholesalers; 2) transport beer between the brewer's brewery premises and any depot or warehouse maintained by the brewer; 3) if the brewer produces 300,000 barrels or less of beer per year, sell, ship, and deliver its own beer to retailers, from the brewery premises; and 4) conduct certain retail operations.~~

~~This bill creates two new categories of brewers, to be known as "contract brewers" and "start-up brewers." A contract brewer is a brewer that, in addition to brewing its own beer, also brews beer at its brewery for other brewers. A start-up brewer does not have its own brewery and does not brew beer, but enters into contractual relationships with one or more contract brewers for the brewing of the start-up brewer's beer using recipes owned or licensed by the start-up brewer.~~

**BILL**

~~Under the bill, when a contract brewer and a start-up brewer have entered into a contractual relationship for the brewing of the start-up brewer's beer at the contract brewer's brewery, this brewery is considered the "brewery premises" of both the contract brewer and the start-up brewer, and all activities authorized on brewery premises are authorized for both the contract brewer and the start-up brewer, including sale and delivery of beer from the brewery premises to wholesalers. To operate as a contract brewer or a start-up brewer, a brewer must register with the Department of Revenue (DOR) and meet standards established by DOR by rule. These rules must require each contract brewer and start-up brewer to hold and operate under a brewer's permit and require a contract brewer to have a written agreement for any contract brewing relationship with an out-of-state brewer or other brewer. The bill includes a definition of an "out-of-state brewer" and requires out-of-state brewers to register with DOR before they may enter into an agreement with a contract brewer for the brewing of beer.~~

\* Current law ~~also~~ requires that ~~beer~~ wholesalers enter into written agreements with brewers and brewpubs supplying beer brands that grant to the wholesalers distribution rights within exclusive sales territories. Under current law, with certain exceptions, if a wholesaler's distribution rights to a beer brand are terminated, the successor wholesaler assuming distribution rights of the brand must compensate the terminated wholesaler for the fair market value of the terminated distribution rights.

This bill specifies that "fair market value," for these purposes, does not include any amount related to a brewer's or brewpub's sale of beer that it brews and sells at retail within the terminated wholesaler's territory.

For further information see the ~~state fiscal estimate~~, which will be printed as an appendix to this bill.

of fermented malt beverages  
(beer)

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1 **SECTION 1.** 125.02 (2) of the statutes is amended to read:

2 125.02 (2) "Brewer" means any person ~~who that~~ manufactures fermented malt  
3 beverages for sale or transportation or a start-up brewer, except that "brewer" does  
4 not include a permittee under s. 125.295.

5 **SECTION 2.** 125.02 (3) of the statutes is renumbered 125.02 (3) (intro.) and  
6 amended to read:

7 125.02 (3) (intro.) "Brewery premises" means the following:



**BILL**

1 ~~(a) Except as provided in par. (b), all land and buildings used in the~~  
2 ~~manufacture or sale of fermented malt beverages at a brewer's principal place of~~  
3 ~~business.~~

4 **SECTION 3.** 125.02 (3) (b) of the statutes is created to read:

5 125.02 ~~(3)~~ (b) With respect to a start-up brewer, all of the following:

6 1. The start-up brewer's principal place of business.

7 2. The brewery premises of any contract brewer with which the start-up  
8 brewer has a contractual relationship for the manufacturing of the start-up brewer's  
9 fermented malt beverages.

10 **SECTION 4.** 125.02 (4m), (11m) and (20g) of the statutes are created to read:

11 125.02 **(4m)** "Contract brewer" means a brewer that, in addition to  
12 manufacturing its own fermented malt beverages, also manufactures at its brewery  
13 premises fermented malt beverages for other brewers or out-of-state brewers.

14 **(11m)** "Out-of-state brewer" means a manufacturer of fermented malt  
15 beverages that does not maintain an office or street address within this state and has  
16 not been issued a permit under s. 125.29.

17 **(20g)** "Start-up brewer" means a person that does not have its own brewery  
18 premises and does not manufacture fermented malt beverages, but has entered into  
19 a contractual relationship with a contract brewer for the manufacturing of the  
20 start-up brewer's fermented malt beverages using recipes owned or licensed by the  
21 start-up brewer.

22 **SECTION 5.** 125.29 (3) (d) of the statutes, as affected by 2011 Wisconsin Act 32,  
23 is amended to read:

24 125.29 **(3)** (d) The sale, shipment, transportation, and delivery in original  
25 unopened packages or containers, to wholesalers, from the brewery premises, of

**BILL****SECTION 5**

1 fermented malt beverages that have been manufactured by the brewer on those  
2 premises or on other premises of the brewer or, if the brewer is a start-up brewer,  
3 that have been manufactured on those premises by a contract brewer for the start-up  
4 brewer.

5 **SECTION 6.** 125.29 (3) (k) of the statutes is created to read:

6 125.29 (3) (k) If the applicant is a contract brewer or start-up brewer, to operate  
7 as a contract brewer or start-up brewer, subject to the requirements under sub. (7).

8 **SECTION 7.** 125.29 (7) of the statutes is created to read:

9 125.29 (7) REGISTRATION AND ACTIVITIES OF CONTRACT BREWERS AND START-UP  
10 BREWERS. (a) To operate as a contract brewer or a start-up brewer, a brewer shall  
11 register with the department and meet the standards established by the department  
12 under par. (c).

13 (b) Before any out-of-state brewer may enter into an agreement with a  
14 contract brewer for the manufacture of fermented malt beverages, the out-of-state  
15 brewer shall register with the department.

16 (c) The department shall promulgate rules establishing standards for contract  
17 brewers and start-up brewers. These rules shall include all of the following:

18 1. Each contract brewer and start-up brewer shall hold and operate under a  
19 brewer's permit issued under this section.

20 2. A contract brewer may not contract with an out-of-state brewer or other  
21 brewer to manufacture fermented malt beverages unless the parties have entered  
22 into a written agreement.

23 **SECTION 8.** 125.33 (10) (b) of the statutes is amended to read:

24 125.33 (10) (b) Except as provided in par. (c) and subject to pars. (d) and (e),  
25 and (f), a successor wholesaler shall compensate a terminated wholesaler for the fair

**BILL**

1 market value of the terminated wholesaler's distribution rights to any discontinued  
2 brand of fermented malt beverages assumed by the successor wholesaler for the  
3 same territory, less any amount paid to the terminated wholesaler by the brewer,  
4 brewpub, brewer's agent, brewpub's agent, or holder of an out-of-state shipper's  
5 permit for the discontinued brand. If the terminated wholesaler's distribution rights  
6 to any discontinued brand of fermented malt beverages are divided among 2 or more  
7 successor wholesalers, each successor wholesaler shall compensate the terminated  
8 wholesaler for the fair market value of the distribution rights to any discontinued  
9 brand of fermented malt beverages assumed by that successor wholesaler for the  
10 applicable part of the same territory, less any amount paid to the terminated  
11 wholesaler by the brewer, brewpub, brewer's agent, brewpub's agent, or holder of an  
12 out-of-state shipper's permit for the discontinued brand. A terminated wholesaler  
13 may not receive under this paragraph total compensation from the successor  
14 wholesaler and brewer, brewpub, brewer's agent, brewpub's agent, or holder of an  
15 out-of-state shipper's permit that exceeds the fair market value of the terminated  
16 wholesaler's distribution rights specified under this paragraph.

17 **SECTION 9.** 125.33 (10) (f) of the statutes is created to read:

18 125.33 (10) (f) Fair market value under par. (b) shall not include any amount  
19 related to a brewer's or brewpub's sale of fermented malt beverages that it  
20 manufactures and sells at retail within the terminated wholesaler's territory.

21 **SECTION 10. Nonstatutory provisions.**

22 (1) PROPOSED PERMANENT RULES. The department of revenue shall submit in  
23 proposed form the rules required under section 125.29 (7) (c) of the statutes to the  
24 legislative council staff under section 227.15 (1) of the statutes no later than the first  
25 day of the 4th month beginning after the effective date of this subsection.

**BILL****SECTION 10**

1 (2) EXCEPTION TO ECONOMIC IMPACT REPORT FOR RULES. Notwithstanding section  
2 227.137 (2) of the statutes, the department of revenue is not required to prepare an  
3 economic impact analysis for the rules required under section 125.29 (7) (c) of the  
4 statutes.

5 (3) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,  
6 the department of revenue shall promulgate the rules required under section 125.29  
7 (7) (c) of the statutes, for the period before the effective date of the permanent rules  
8 promulgated under section 125.29 (7) (c) of the statutes, but not to exceed the period  
9 authorized under section 227.24 (1) (c) of the statutes, subject to extension under  
10 section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and  
11 (3) of the statutes, the department is not required to provide evidence that  
12 promulgating a rule under this subsection as an emergency rule is necessary for the  
13 preservation of public peace, health, safety, or welfare and is not required to provide  
14 a finding of an emergency for a rule promulgated under this subsection.  
15 Notwithstanding section 227.24 (1) (e) 1d. and 1g. of the statutes, the department is  
16 not required to obtain approval of a statement of scope as provided in section 227.135  
17 (2) or (4) of the statutes, or submit the proposed emergency rule in final draft form  
18 to the governor for approval and obtain such approval, for a rule promulgated under  
19 this subsection.

20 **SECTION 11. Effective dates.** This act takes effect on the first day of the 4th  
21 month beginning after publication, except as follows:

22 (1) SECTION 10 of this act takes effect on the day after publication.

23 → (END)

**Parisi, Lori**

---

**From:** Gau, Maggie

**Sent:** Wednesday, February 22, 2012 4:09 PM

**To:** LRB.Legal

**Subject:** Draft Review: LRB 11-4151/1 Topic: Brand compensation for wholesalers

Please Jacket LRB 11-4151/1 for the ASSEMBLY.

2/22/2012